

Calendar No. 287

109TH CONGRESS
1ST SESSION

S. 467

To extend the applicability of the Terrorism Risk Insurance Act of 2002.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18, 2005

Mr. DODD (for himself, Mr. BENNETT, Mr. SCHUMER, Mr. HAGEL, Mr. CORZINE, Mr. BUNNING, Mr. REED, Mr. LUGAR, Mrs. CLINTON, Mr. NELSON of Nebraska, Mr. CARPER, Mrs. DOLE, Mr. CHAMBLISS, Mr. LAUTENBERG, Mr. BAYH, Ms. STABENOW, Mr. CHAFEE, Mr. LIEBERMAN, Mr. SALAZAR, Mr. OBAMA, Mr. KERRY, Mr. ALLEN, Mr. DURBIN, Mr. COLEMAN, Mrs. MURRAY, Mr. REID, Mr. DAYTON, Mr. BYRD, Mr. CONRAD, Mr. SMITH, Mr. BINGAMAN, Mr. JOHNSON, Mr. KENNEDY, and Mr. TALENT) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

NOVEMBER 16, 2005

Reported by Mr. SHELBY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To extend the applicability of the Terrorism Risk Insurance
Act of 2002.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Terrorism Risk Insur-
3 ance Extension Act of 2005.”.

4 **SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PRO-**
5 **GRAM.**

6 (a) **EXTENSION OF PROGRAM YEARS.**—Section
7 108(a) of the Terrorism Risk Insurance Act of 2002 (15
8 U.S.C. 6701 note, 116 Stat. 2336) is amended by striking
9 “2005” and inserting “2007”.

10 (b) **CONTINUING AUTHORITY OF THE SECRETARY.**—
11 Section 108(b) of the Terrorism Risk Insurance Act of
12 2002 (15 U.S.C. 6701 note, 116 Stat. 2336) is amended
13 by striking “arising out of” and all that follows through
14 “this title”.

15 **SEC. 3. CONFORMING AMENDMENTS.**

16 (a) **DEFINITIONS.**—

17 (1) **PROGRAM YEARS.**—Section 102(11) of the
18 Terrorism Risk Insurance Act of 2002 (15 U.S.C.
19 6701 note, 116 Stat. 2326) is amended by adding
20 at the end the following:

21 “(E) **PROGRAM YEAR 4.**—The term ‘Pro-
22 gram Year 4’ means the period beginning on
23 January 1, 2006 and ending on December 31,
24 2006.

25 “(F) **PROGRAM YEAR 5.**—The term ‘Pro-
26 gram Year 5’ means the period beginning on

1 January 1, 2007 and ending on December 31,
2 2007.

3 “(G) OTHER PROGRAM YEARS.—Except
4 when used as provided in subparagraphs (B)
5 through (F), the term ‘Program Year’ means,
6 as the context requires, any of Program Year 1,
7 Program Year 2, Program Year 3, Program
8 Year 4, or Program Year 5.”.

9 (2) INSURED LOSSES.—Section 102(5) of the
10 Terrorism Risk Insurance Act of 2002 (15 U.S.C.
11 6701 note, 116 Stat. 2324) is amended—

12 (A) by inserting “on or before December
13 31, 2007, as required by this title,” before “if
14 such loss”;

15 (B) by striking “(A) occurs within” and
16 inserting the following:

17 “(A) occurs on or before the earlier of the
18 expiration date of the insurance policy or De-
19 cember 31, 2008; and

20 “(B) occurs—

21 “(i) within”; and

22 (C) by striking “occurs to an air carrier”
23 and inserting the following:

24 “(ii) to an air carrier”.

1 ~~(3)~~ CONFORMING AMENDMENTS.—Section 102
 2 of the Terrorism Risk Insurance Act of 2002 (15
 3 U.S.C. 6701 note, 116 Stat. 2323) is amended—

4 (A) in paragraph (1)(A)(iii)(I), by striking
 5 “~~(5)(B)~~” and inserting “(5)(B)(ii)”; and

6 (B) in paragraph (4), by striking “sub-
 7 paragraphs (A) and (B)” and inserting “sub-
 8 paragraph (B)”.

9 ~~(b)~~ APPLICABLE INSURER DEDUCTIBLES.—Section
 10 102(7) of the Terrorism Risk Insurance Act of 2002 (15
 11 U.S.C. 6701 note, 116 Stat. 2325) is amended—

12 (1) in subparagraph (D)—

13 (A) by inserting “and each Program Year
 14 thereafter” before “; the value”; and

15 (B) by striking “preceding Program Year
 16 3” and inserting “preceding that Program
 17 Year”; and

18 (2) in subparagraph (E), by striking “for the
 19 Transition” and all that follows through “Program
 20 Year 3” and inserting the following: “for the Transi-
 21 tion Period or any Program Year”.

22 ~~(c)~~ CONTINUATION OF MANDATORY AVAILABILITY.—
 23 Section 103(c)(1) of the Terrorism Risk Insurance Act of
 24 2002 (15 U.S.C. 6701 note, 116 Stat. 2327) is amend-
 25 ed—

1 (1) by striking “last day of Program Year 2”
 2 and inserting “termination date established under
 3 section 108(a)”; and

4 (2) by striking the paragraph heading and in-
 5 serting “IN GENERAL.—”.

6 (d) DURATION OF POLICIES.—Section 103(e) of the
 7 Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701
 8 note, 116 Stat. 2327) is amended—

9 (1) by redesignating paragraph (2) as para-
 10 graph (3); and

11 (2) by inserting after paragraph (1) the fol-
 12 lowing:

13 “(2) MANDATORY DURATION.—Coverage for in-
 14 sured losses required by paragraph (1) under a pol-
 15 icy issued at any time during Program Year 5 shall
 16 remain in effect for not less than 1 year following
 17 the date of issuance of the policy, except that no loss
 18 occurring after the earlier of the expiration date of
 19 the subject insurance policy or December 31, 2008,
 20 shall be considered to be an insured loss for pur-
 21 poses of this title.”.

22 (e) INSURED LOSS SHARED COMPENSATION.—Sec-
 23 tion 103(e) of the Terrorism Risk Insurance Act of 2002
 24 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended—

1 (1) in paragraph (2)(A), by striking “ending
2 on” and all that follows through “Program Year 3”
3 and inserting “ending on the termination date estab-
4 lished under section 108(a)”; and

5 (2) in paragraph (3), by striking “ending on”
6 and all that follows through “Program Year 3” and
7 inserting “ending on the termination date estab-
8 lished under section 108(a)”.

9 (f) AGGREGATE RETENTION AMOUNT.—Section
10 103(e)(6) of the Terrorism Risk Insurance Act of 2002
11 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended—

12 (1) in subparagraph (B), by striking “and” at
13 the end;

14 (2) in subparagraph (C), by striking the period
15 at the end and inserting a semicolon; and

16 (3) by adding at the end the following:

17 “(D) for Program Year 4, the lesser of—

18 “(i) \$17,500,000,000; and

19 “(ii) the aggregate amount, for all in-
20 surers, of insured losses during such Pro-
21 gram Year; and

22 “(E) for Program Year 5, the lesser of—

23 “(i) \$20,000,000,000; and

1 “(ii) the aggregate amount, for all in-
 2 surers, of insured losses during such Pro-
 3 gram Year.”.

4 **SEC. 4. COVERAGE OF GROUP LIFE INSURANCE.**

5 Section ~~103~~ of the Terrorism Risk Insurance Act of
 6 2002 (~~15 U.S.C. 6701 note, 116 Stat. 2327~~) is amended
 7 by striking subsection (h) and inserting the following:

8 “(h) APPLICABILITY TO GROUP LIFE INSURANCE.—

9 “(1) IN GENERAL.—The Secretary shall, by
 10 rule, apply the provisions of this title to providers of
 11 group life insurance, in the manner determined ap-
 12 propriate by the Secretary, consistent with the pur-
 13 poses of this title.

14 “(2) CONSISTENT APPLICATION.—The rules of
 15 the Secretary under this subsection shall, to the ex-
 16 tent practicable, apply the provisions of this title to
 17 providers of group life insurance in a similar manner
 18 as those provisions apply to an insurer otherwise
 19 under this title.

20 “(3) CONSIDERATIONS.—In determining the ap-
 21 plicability of this title to providers of group life in-
 22 surance, and the manner of such application, the
 23 Secretary shall consider the overall group life insur-
 24 ance market size, and shall consider the establish-

1 ment of separate retention amounts for such pro-
2 viders.

3 ~~“(4) RULEMAKING REQUIRED.—Not later than~~
4 90 days after the date of enactment of the Ter-
5 rorism Risk Insurance Extension Act of 2005, the
6 Secretary shall issue final regulations to carry out
7 this subsection.

8 ~~“(5) RULE OF CONSTRUCTION.—Nothing in~~
9 this subsection may be construed to affect or other-
10 wise alter the applicability of this title to any in-
11 surer, as defined in section 102.

12 ~~“(6) DEFINITION.—As used in this subsection,~~
13 the term ‘group life insurance’ means an insurance
14 contract that provides term life insurance coverage,
15 accidental death coverage, or a combination thereof,
16 for a number of persons under a single contract, on
17 the basis of a group selection of risks.”.

18 **SEC. 5. RECOMMENDATIONS FOR LONG-TERM SOLUTIONS.**

19 Section 108 of the Terrorism Risk Insurance Act of
20 2002 (15 U.S.C. 6701 note, 116 Stat. 2328) is amended
21 by adding at the end the following:

22 ~~“(e) RECOMMENDATIONS FOR LONG-TERM SOLU-~~
23 TIONS.—The Presidential Working Group on Financial
24 Markets shall, in consultation with the NAIC, representa-
25 tives of the insurance industry, and representatives of pol-

1 key holders, not later than June 30, 2006, submit a report
 2 to Congress containing recommendations for legislation to
 3 address the long-term availability and affordability of in-
 4 surance for terrorism risk.”.

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “Terrorism Risk Insur-*
 7 *ance Extension Act of 2005”.*

8 **SEC. 2. EXTENSION OF TERRORISM RISK INSURANCE PRO-**
 9 **GRAM.**

10 (a) *PROGRAM EXTENSION.*—Section 108(a) of the Ter-
 11 rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note;
 12 116 Stat. 2336) is amended by striking “2005” and insert-
 13 ing “2007”.

14 (b) *MANDATORY AVAILABILITY.*—Section 103(c) of the
 15 Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701
 16 note; 116 Stat. 2327) is amended—

17 (1) by striking paragraph (2);

18 (2) by striking “AVAILABILITY.—” and all that
 19 follows through “each entity” and inserting “AVAIL-
 20 ABILITY.—During each Program Year, each entity”;
 21 and

22 (3) by redesignating subparagraphs (A) and (B)
 23 as paragraphs (1) and (2), respectively, and moving
 24 the margins 2 ems to the left.

1 **SEC. 3. AMENDMENTS TO DEFINED TERMS.**

2 (a) *COVERED ACTS OF TERRORISM.*—Section
 3 102(1)(B)(ii) of the *Terrorism Risk Insurance Act of 2002*
 4 (15 U.S.C. 6701 note; 116 Stat. 2324) is amended by insert-
 5 ing before the period “, with respect to an act occurring
 6 before Program Year 4, \$50,000,000 with respect to an act
 7 occurring in Program Year 4, or \$100,000,000 with respect
 8 to an act occurring in Program Year 5”.

9 (b) *PROGRAM YEARS.*—Section 102(11) of the *Ter-*
 10 *rorism Risk Insurance Act of 2002* (15 U.S.C. 6701 note;
 11 116 Stat. 2326) is amended by adding at the end the fol-
 12 lowing:

13 “(E) *PROGRAM YEAR 4.*—The term ‘Pro-
 14 gram Year 4’ means the period beginning on
 15 January 1, 2006 and ending on December 31,
 16 2006.

17 “(F) *PROGRAM YEAR 5.*—The term ‘Pro-
 18 gram Year 5’ means the period beginning on
 19 January 1, 2007 and ending on December 31,
 20 2007.”.

21 (c) *EXCLUSIONS FROM COVERED LINES.*—

22 (1) *IN GENERAL.*—Section 102(12)(B) of the *Ter-*
 23 *rorism Risk Insurance Act of 2002* (15 U.S.C. 6701
 24 note; 116 Stat. 2326) is amended—

25 (A) in clause (vi), by striking “or” at the
 26 end;

1 (B) in clause (vii), by striking the period at
2 the end and inserting a semicolon; and

3 (C) by adding at the end the following:

4 “(viii) commercial automobile insur-
5 ance;

6 “(ix) burglary and theft insurance;

7 “(x) surety insurance;

8 “(xi) professional liability insurance;

9 or

10 “(xii) farm owners multiple peril in-
11 surance.”.

12 (2) CONFORMING AMENDMENTS.—Section
13 102(12)(A) of the Terrorism Risk Insurance Act of
14 2002 (15 U.S.C. 6701 note; 116 Stat. 2326) is amend-
15 ed—

16 (A) by striking “, and surety insurance”;
17 and

18 (B) by striking “, worker’s” and inserting
19 “and worker’s”.

20 (d) INSURER DEDUCTIBLES.—Section 102(7) of the
21 Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701
22 note; 116 Stat. 2325) is amended—

23 (1) in subparagraph (D), by striking “and” at
24 the end;

1 (2) *by redesignating subparagraph (E) as sub-*
 2 *paragraph (G);*

3 (3) *by inserting after subparagraph (D), the fol-*
 4 *lowing:*

5 *“(E) for Program Year 4, the value of an*
 6 *insurer’s direct earned premiums over the cal-*
 7 *endar year immediately preceding Program Year*
 8 *4, multiplied by 17.5 percent;*

9 *“(F) for Program Year 5, the value of an*
 10 *insurer’s direct earned premiums over the cal-*
 11 *endar year immediately preceding Program Year*
 12 *5, multiplied by 20 percent; and”;* and

13 (4) *in subparagraph (G), as so redesignated, by*
 14 *striking “through (D)” and all that follows through*
 15 *“Year 3” and inserting the following: “through (F), for*
 16 *the Transition Period or any Program Year”.*

17 **SEC. 4. INSURED LOSS SHARED COMPENSATION.**

18 *Section 103(e) of the Terrorism Risk Insurance Act of*
 19 *2002 (15 U.S.C. 6701 note; 116 Stat. 2328) is amended—*

20 (1) *in paragraph (1)—*

21 (A) *by inserting “through Program Year 4”*
 22 *before “shall be equal”; and*

23 (B) *by inserting “, and during Program*
 24 *Year 5 shall be equal to 85 percent,” after “90*
 25 *percent”; and*

1 (2) in each of paragraphs (2) and (3), by strik-
 2 ing “Program Year 2 or Program Year 3” each place
 3 that term appears and inserting “any of Program
 4 Years 2 through 5”.

5 **SEC. 5. AGGREGATE RETENTION AMOUNTS AND**
 6 **RECOUPMENT OF FEDERAL SHARE.**

7 (a) *AGGREGATE RETENTION AMOUNTS.*—Section
 8 103(e)(6) of the Terrorism Risk Insurance Act of 2002 (15
 9 U.S.C. 6701 note; 116 Stat. 2329) is amended—

10 (1) in subparagraph (B), by striking “and” at
 11 the end;

12 (2) in subparagraph (C), by striking the period
 13 at the end and inserting a semicolon; and

14 (3) by adding at the end the following:

15 “(D) for Program Year 4, the lesser of—

16 “(i) \$17,500,000,000; and

17 “(ii) the aggregate amount, for all in-
 18 surers, of insured losses during such Pro-
 19 gram Year; and

20 “(E) for Program Year 5, the lesser of—

21 “(i) \$20,000,000,000; and

22 “(ii) the aggregate amount, for all in-
 23 surers, of insured losses during such Pro-
 24 gram Year.”.

1 (b) *RECOUPMENT OF FEDERAL SHARE*.—Section
 2 103(e)(7) of the *Terrorism Risk Insurance Act of 2002* (15
 3 U.S.C. 6701 note; 116 Stat. 2329) is amended—

4 (1) in subparagraph (A), by striking “, (B), and
 5 (C)” and inserting “through (E)”; and

6 (2) in each of subparagraphs (B) and (C), by
 7 striking “subparagraph (A), (B), or (C)” each place
 8 that term appears and inserting “any of subpara-
 9 graphs (A) through (E)”.

10 **SEC. 6. LITIGATION MANAGEMENT.**

11 Section 107(a) of the *Terrorism Risk Insurance Act*
 12 of 2002 (15 U.S.C. 6701 note; 116 Stat. 2335) is amended
 13 by adding at the end the following:

14 “(6) *AUTHORITY OF THE SECRETARY*.—Proce-
 15 dures and requirements established by the Secretary
 16 under section 50.82 of part 50 of title 31 of the Code
 17 of Federal Regulations (as in effect on the date of
 18 issuance of that section in final form) shall apply to
 19 any cause of action described in paragraph (1) of this
 20 subsection.”.

21 **SEC. 7. ANALYSIS AND REPORT ON TERRORISM RISK COV-**
 22 **ERAGE CONDITIONS AND SOLUTIONS.**

23 Section 108 of the *Terrorism Risk Insurance Act of*
 24 2002 (15 U.S.C. 6701 note; 116 Stat. 2336) is amended
 25 by adding at the end the following:

1 “(e) *ANALYSIS OF MARKET CONDITIONS FOR TER-*
 2 *RORISM RISK INSURANCE.*—

3 “(1) *IN GENERAL.*—*The President’s Working*
 4 *Group on Financial Markets, in consultation with the*
 5 *National Association of Insurance Commissioners,*
 6 *representatives of the insurance industry, representa-*
 7 *tives of the securities industry, and representatives of*
 8 *policy holders, shall perform an analysis regarding*
 9 *the long-term availability and affordability of insur-*
 10 *ance for terrorism risk, including—*

11 “(A) *group life coverage; and*

12 “(B) *coverage for chemical, nuclear, biologi-*
 13 *cal, and radiological events.*

14 “(2) *REPORT.*—*Not later than September 30,*
 15 *2006, the President’s Working Group on Financial*
 16 *Markets shall submit a report to the Committee on*
 17 *Banking, Housing, and Urban Affairs of the Senate*
 18 *and the Committee on Financial Services of the*
 19 *House of Representatives on its findings pursuant to*
 20 *the analysis conducted under subsection (a).’.*

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